

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

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153 SUCKLE HIGHWAY, LLC

Plaintiff,

v.

TWIN CITY FIRE INSURANCE COMPANY,

Defendant.

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CIVIL ACTION NO. \_\_\_\_\_

**NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, Defendant, Twin City Fire Insurance Company ("Twin City"), hereby removes to the United States District Court for the District of New Jersey the case captioned 153 Suckle Highway, LLC v. Twin City Fire Insurance Company, Civil Action No. CAM-L-00207-19, Superior Court of New Jersey Law Division: Camden County, and, as grounds for removal states as follows:

1. On or about January 16, 2019, 153 Suckle Highway, LLC ("Plaintiff") instituted suit by filing a Complaint against Twin City in the Superior Court of New Jersey Law Division: Camden County (Civil Action No. CAM-L-00207-19). A copy of the Complaint is attached as Exhibit A.

2. On or about February 25, 2019, Plaintiff sent the Civil Action Summons and Complaint in this action to the New Jersey Commissioner of Banking and Insurance ("the Commissioner"), pursuant to Section 17:32-2(c), NJ Stat. Ann. A copy of the cover letter to the Commissioner is attached hereto as Exhibit B.

3. On March 12, 2019, the Commissioner issued a Rejection of Service which indicated that Plaintiff did not send the Complaint to the correct registered agent

for Twin City and that the service of process could not be completed. See Rejection of Service of Process from the Commissioner to Plaintiff, attached hereto as Exhibit C.

4. Thereafter, on April 16, 2019, the Commissioner forwarded a copy of the Summons and Complaint to the correct address for Twin City and advised of the previously incorrect mailing. The Commissioner sent a copy of this April 16, 2019 mailing to Plaintiff. See letter dated April 16, 2019 from the Commissioner to Twin City attached hereto as Exhibit D.

5. On April 22, 2019, Twin City received the copy of the mailing from the Commissioner with the Summons and Complaint, which was Twin City's first notice of this lawsuit. A copy of the CT Corporation Service of Process Transmittal is attached hereto as Exhibit E.

6. The basis for federal court jurisdiction is 28 U.S.C. §1332, diversity of citizenship, which provides, in relevant part, that federal district courts have original jurisdiction of civil actions between citizens of different states where the amount in controversy exceeds \$75,000.00, exclusive of interests and costs.

7. 28 U.S.C. § 1441(a) provides that: "any civil action brought in a state court of which the district courts of the United States have original jurisdiction, may be removed by the defendant... to the district court of the United States for the district and division embracing the place where such action is pending." The District Court of New Jersey embraces Camden County.

8. 28 U.S.C. § 1446(b) provides for removal to be made within 30 days following receipt of the initial pleading. The deadline to remove commenced from April

22, 2019, when Twin City actually received a copy of the initial pleading. See *Tucci v. Hartford Fin. Serv. Grp., Inc.*, 600 F. Supp. 2d 630, 632 (D.N.J. 2009).

9. This Notice is being filed within 30 days of receipt of the Summons and Complaint, Exhibit A, which was served upon Twin City on April 22, 2019, as provided by 28 U.S.C. § 1446(b).

10. Plaintiff, 153 Suckle Highway LLC, is a New Jersey Limited Liability Company, organized under the laws of the State of New Jersey, with its principal place of business at 1395 Suckle Highway, Pennsauken, NJ 08110.

11. The sole member of 153 Suckle Highway LLC is Sung W. Oh.

12. Mr. Oh is a citizen and resident of the State of New Jersey as established by the following facts:

a. The address on the Long Form Standing with Officers and Directors for 153 Suckle Highway LLC lists Mr. Oh's address in Marlton, NJ 0805385.

b. Mr. Oh has a New Jersey Driver's License that was issued in New Jersey that lists his address in Marlton, NJ.

13. Twin City is, and was at the time the Complaint was filed in New Jersey State Court, an Indiana corporation with its principal place of business at 1 Hartford Plaza, Hartford, CT.

14. Plaintiff seeks damages in excess of the jurisdictional minimum set forth in 28 U.S.C. § 1332. See Exhibit A, ¶ 9 where Plaintiff identifies the amount at issue as \$214,570.17.

15. Pursuant to the requirements of 28 U.S.C. §1446(a), Twin City has attached a copy of all process, pleadings and orders served on it.

16. Pursuant to the requirements of 28 U.S.C. §1446(d), Twin City shall provide a copy of the Notice of Removal to Plaintiff and will file a certified copy of this Notice with the Clerk of Courts of the Superior Court of New Jersey Law Division: Camden County.

17. Removal of Plaintiff's case to the United States District Court for the District of New Jersey is permitted under the circumstances of this case because all parties are citizens of different states and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

WHEREFORE, Defendant, Twin City Insurance Company, prays that this action, 153 Suckle Highway, LLC v. Twin City Fire Insurance Company, Civil Action No. CAM-L-00207-19, Superior Court of New Jersey Law Division: Camden County, be removed to the United States District Court for the District of New Jersey.

BUTLER WEIHMULLER KATZ CRAIG LLP

s/ Richard D. Gable, Jr.

RICHARD D. GABLE, JR., ESQ.

[rgable@butler.legal](mailto:rgable@butler.legal)

MICHAEL J. McLAUGHLIN, ESQ.

[mmclaughlin@butler.legal](mailto:mmclaughlin@butler.legal)

1818 Market Street, Suite 2740

Philadelphia, PA 19103

Telephone: (215) 405-9191

Facsimile: (215) 405-9190

*Attorneys for Defendant,*

*Twin City Fire Insurance Company*

Dated: May 10, 2019

**CERTIFICATE OF SERVICE**

I, Richard D. Gable, Jr., hereby certify that a true and correct copy of the foregoing Notice of Removal has been served on the following counsel of record via the Court's Electronic Court Filing system, on this 10<sup>th</sup> day of May, 2019:

Diana L. Moro, Esq.  
Durkin Law Associates, P.C.  
1760 Market Street, Suite 601  
Philadelphia, PA 19103  
*Attorney for the Plaintiff*

s/ Richard D. Gable, Jr.  
RICHARD D. GABLE, JR., ESQ.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

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153 SUCKLE HIGHWAY, LLC

Plaintiff,

v.

TWIN CITY FIRE INSURANCE COMPANY,

Defendant.

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CIVIL ACTION NO. \_\_\_\_\_

**PROOF OF FILING**

I, Richard D. Gable, Jr., hereby certify that a copy of the foregoing Notice of Removal will be filed with the Clerk of the Superior Court of New Jersey, Camden County, immediately upon receipt of the Electronic Court Filing notice from the United States District Court for the District of New Jersey.

BUTLER WEIHMULLER KATZ CRAIG LLP

s/ Richard D. Gable, Jr. \_\_\_\_\_

RICHARD D. GABLE, JR., ESQ.

[rgable@butler.legal](mailto:rgable@butler.legal)

MICHAEL McLAUGHLIN, ESQ.

[mmclaughlin@butler.legal](mailto:mmclaughlin@butler.legal)

1818 Market Street, Suite 2740

Philadelphia, PA 19103

Telephone: (215) 405-9191

Facsimile: (215) 405-9190

*Attorneys for Defendant,*

*Twin City Fire Insurance Company*

Dated: May 10, 2019

# **EXHIBIT A**

**SUMMONS**

Attorney(s) Diana L. Moro, Esquire  
Office Address 1760 Market Street, Suite 601  
Town, State, Zip Code Philadelphia, PA 19103  
Telephone Number (215) 569 - 9090  
Attorney(s) for Plaintiff Diana L. Moro, Esquire  
153 Suckle Highway, LLC

**Superior Court of  
New Jersey**

Camden County  
Civil Division

Docket No: L-000207-19

\_\_\_\_\_  
Plaintiff(s)

vs.

Twin City Fire Insurance Company

\_\_\_\_\_  
Defendant(s)

**CIVIL ACTION  
SUMMONS**

From The State of New Jersey To The Defendant(s) Named Above:

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (A directory of the addresses of each deputy clerk of the Superior Court is available in the Civil Division Management Office in the county listed above and online at [http://www.njcourts.gov/forms/10153\\_deptyclerklawref.pdf](http://www.njcourts.gov/forms/10153_deptyclerklawref.pdf).) If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, P.O. Box 971, Trenton, NJ 08625-0971. A filing fee payable to the Treasurer, State of New Jersey and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee of \$175.00 and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgment against you for the relief plaintiff demands, plus interest and costs of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services office in the county where you live or the Legal Services of New Jersey Statewide Hotline at 1-888-LSNJ-LAW (1-888-576-5529). If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A directory with contact information for local Legal Services Offices and Lawyer Referral Services is available in the Civil Division Management Office in the county listed above and online at [http://www.njcourts.gov/forms/10153\\_deptyclerklawref.pdf](http://www.njcourts.gov/forms/10153_deptyclerklawref.pdf).

\_\_\_\_\_  
Clerk of the Superior Court

DATED: \_\_\_\_\_

Name of Defendant to Be Served: Twin City Fire Insurance Company

Address of Defendant to Be Served: 8910 Purdue Road, Indianapolis, IN 46268



## Civil Case Information Statement

**Case Details: CAMDEN | Civil Part Docket# L-000207-19**

**Case Caption:** 153 SUCKLE HIGHWAY, LLC VS TWIN  
CITY FIRE INSUR

**Case Initiation Date:** 01/16/2019

**Attorney Name:** DIANA L MORO

**Firm Name:** DURKIN LAW OFFICES

**Address:** 1760 MARKET ST STE 601  
PHILADELPHIA PA 19103

**Phone:**

**Name of Party:** PLAINTIFF : 153 Suckle Highway, LLC

**Name of Defendant's Primary Insurance Company**  
(if known): Unknown

**Case Type:** CONTRACT/COMMERCIAL TRANSACTION

**Document Type:** Complaint with Jury Demand

**Jury Demand:** YES - 6 JURORS

**Hurricane Sandy related?** NO

**Is this a professional malpractice case?** NO

**Related cases pending:** NO

**If yes, list docket numbers:**

**Do you anticipate adding any parties (arising out of same  
transaction or occurrence)?** NO

**THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE**

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

**Do parties have a current, past, or recurrent relationship?** YES

**If yes, is that relationship:** Business

**Does the statute governing this case provide for payment of fees by the losing party?** NO

**Use this space to alert the court to any special case characteristics that may warrant individual  
management or accelerated disposition:**

**Do you or your client need any disability accommodations?** NO

**If yes, please identify the requested accommodation:**

**Will an interpreter be needed?** NO

**If yes, for what language:**

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule 1:38-7(b)*

01/16/2019  
Dated

/s/ DIANA L MORO  
Signed

**DURKIN LAW OFFICES, P.C.**

BY: Diana L. Moro, Esquire  
1760 Market Street - Suite 601  
Philadelphia, PA 19103  
Phone: (215) 569-9090

Attorney for Plaintiff

**153 SUCKLE HIGHWAY, LLC**  
8116 Old York Road, Suite 201  
Elkins Park, PA 19027

Plaintiff,

v.

**TWIN CITY FIRE  
INSURANCE COMPANY**  
8910 Purdue Road  
Indianapolis, IN 46268

Defendant.

SUPERIOR COURT OF NEW JERSEY  
OF CAMDEN COUNTY

CIVIL ACTION

DOCKET NO.:

**COMPLAINT**

**COMPLAINT**

AND NOW, Plaintiff, 153 Suckle Highway, LLC, by and through its counsel, Durkin Law Offices, P.C., sets forth the within Complaint against Defendant, Twin City Fire Insurance Company, and states the following:

**THE PARTIES**

1. Plaintiff, 153 Suckle Highway, LLC (hereinafter "Plaintiff"), is a New Jersey business entity with an address of 8116 Old York Road, Suite 201, Elkins Park, Pennsylvania.

2. Defendant, Twin City Fire Insurance Company (hereinafter "Defendant"), is an Indiana corporation authorized to conduct business in the State of New Jersey with an address of 8910 Purdue Road, Indianapolis, Indiana.

**STATEMENT OF THE FACTUAL CLAIM SHOWING  
PLAINTIFF' ENTITLEMENT TO RELIEF**

3. At all times relevant and material hereto, the Defendant, Twin City Fire Insurance Company, was authorized to issue insurance policies in the State of New Jersey.

4. At all times relevant and material hereto, in consideration of a premium paid by the Plaintiff to the Defendant, Defendant issued and delivered to Plaintiff an insurance policy, Twin City Fire Insurance Company Policy No. 39 SBA VV1867 wherein Defendant insured Plaintiff against losses to its property located at 1395 Suckle Highway, Pennsauken, New Jersey and costs as more particularly set forth on the Declarations Pages of said policy.

5. The aforesaid insurance policy issued to Plaintiff with Defendant, bearing Policy No. 39 SBA VV1867, provided insurance coverage to Plaintiff for the time period encompassing March 7, 2018 for Plaintiff's premises located at 1395 Suckle Highway, Pennsauken, New Jersey.

6. At all times relevant and material hereto, Defendant held itself out to the Plaintiff as an expert in insurance matters, and knew that Plaintiff was relying upon the Defendant to provide proper and adequate insurance and related coverages.

7. At all times relevant and material hereto, Defendant agreed and represented that it would obtain and maintain proper and adequate insurance coverage on Plaintiff's property and would cause the necessary policy to be written and issued sufficient to provide Plaintiff full protection against risks as described in the policy and Declarations Page.

8. The aforesaid insurance policy with Defendant provided, *inter alia*, coverage for Plaintiff's property located at 1395 Suckle Highway, Pennsauken, New Jersey, as well as other coverages as set forth in the policy.

11. Plaintiff duly notified Defendant of the aforesaid losses and made a proper claim under its policy with the Defendant for coverage and payment of Plaintiff's losses.

**COUNT I**

13. Plaintiff incorporates the averments of paragraphs 1 through 12 as though same were fully set forth at length herein.

15. The Plaintiff sustained a loss relating to property damage to its premises as a result of the storm which has not been paid.

18. Solely as a result of Defendant's failure to make payment for the damages sustained by the Plaintiff, coverage of which is provided in its insurance policy with Plaintiff, Plaintiff has suffered and will continue to suffer direct and consequential damages, namely that Plaintiff cannot repair its property which was damaged as a direct and proximate result of the storm loss.

20. Defendant breached its contract with Plaintiff by refusing to provide coverage for the loss described aforesaid, which loss is covered under Plaintiff's insurance policy with Defendant.

WHEREFORE, Plaintiff requests judgment against Defendant for damages, together with attorney's fees, if applicable, costs of suit, and any other relief as the court may deem proper.

### CERTIFICATION OF NO OTHER ACTIONS

I certify that the dispute about which I am suing is not the subject of any other action pending in any other court or a pending arbitration proceeding to the best of my knowledge and belief. Also, to the best of my knowledge and belief no other action or Arbitration proceeding is contemplated. Further, other than the parties set forth in this complaint, I know of no other parties that should be made a part of this lawsuit. In addition, I recognize my continuing obligation to file and serve on all parties and the court an amended certification if there is a change in the facts stated in this original certification.

## JURY DEMAND

The plaintiff demands trial by a jury on all of the triable issues of this complaint, pursuant to New Jersey Court Rules 1:8-2(b) and 4:35-1(a).

Respectfully submitted,

**DURKIN LAW OFFICES, P.C.**

BY: /s/ Diana L. Moro  
Diana L. Moro, Esquire  
Attorney for Plaintiff

Dated: January 16, 2019

# **EXHIBIT B**

DURKIN LAW OFFICES, P.C.

**COPY**

1760 MARKET STREET  
SUITE 601  
PHILADELPHIA, PA 19103  
215-569-9090  
FAX 215-569-9595  
e-mail: mdurkin@durkinpc.com  
www.durkinpc.com

Respond to:  
DIANA L. MORO

February 25, 2019

Attention: Debra Mullen, Admin. Assistant  
Office of Legislative and Regulatory Affairs  
**NEW JERSEY DEPARTMENT OF  
BANKING AND INSURANCE**  
20 W. State Street  
P.O. Box 325  
Trenton, NJ 08625

**RE: 153 Suckle Highway, LLC v. Twin City Fire Insurance Company**  
**Superior Court of NJ of Camden County, Civil No. CAM L 000207-19**  
**Our File No.: 700-340**

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Dear Ms. Mullen:

Enclosed please find the Complaint in connection with the above referenced matter for service upon Defendant, Twin City Fire Insurance Company. Thank you.

Very truly yours,

DURKIN LAW OFFICES, P.C.

BY: 

Diana L. Moro, Esquire

MAD/jp  
Enclosures



# **EXHIBIT C**



Transmittal Number: 19485688 null

## Rejection of Service of Process

### Return to Sender Information:

Diana L. Moro null  
Durkin Law Offices, P.C.  
1760 Market Street  
Suite 601  
Philadelphia, PA 19103

Date: 03/12/2019

Party Served: Twin City Fire Insurance Company  
Title of Action: 153 Suckle Highway, LLC vs. Twin City Fire Insurance Company  
Court/Agency: Camden County Superior Court, NJ  
Case/Reference No: CAM-L-000207-19

The service of process received for the party served, as listed above, cannot be forwarded to the intended party for the reason listed below:

According to our records and the records at the Secretary of State, or other appropriate state agency, we are not the registered agent for the company you are trying to serve. It is your responsibility to verify this information with the Secretary of State or other appropriate state agency.

Our customer records are confidential. We do not release any information related to our customers, agent representation or service of process received. Please contact the Secretary of State or other appropriate agency for more information.

For an electronic copy of the identified service, send your request by e-mail to [sop@cscglobal.com](mailto:sop@cscglobal.com). Please include the transmittal number located in the upper right-hand corner of this letter.

251 Little Falls Drive, Wilmington, Delaware 19808-1674  
(888) 690-2882 | [sop@cscglobal.com](mailto:sop@cscglobal.com)

# **EXHIBIT D**



**State of New Jersey**

DEPARTMENT OF BANKING AND INSURANCE

OFFICE OF THE COMMISSIONER

PO BOX 325

TRENTON, NJ 08625-0325

TEL (609) 292-7272

PHIL MURPHY  
*Governor*

SHEILA OLIVER  
*Lt. Governor*

MARLENE CARIDE  
*Commissioner*

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

April 16, 2019

Twin City Fire Insurance Company  
C/O Corporation Trust Company  
820 Bear Tavern Road  
West Trenton, NJ 08628

Re: 153 Suckle Highway, LLC v. Twin City Fire Insurance Company  
Superior Court of New Jersey, Camden County Law Division  
Docket No. CAM-L-000207-19

Dear Sir/Madam:

Please be advised that on March 4, 2019 the Commissioner of the New Jersey Department of Banking and Insurance accepted original service of process on your behalf in the above-captioned matter. The documents served are enclosed herein. Although the documents had been mailed to the address officially designated by your company for the forwarding of service of process unfortunately, the documents were delivered to an incorrect address.

By copy of this letter I am advising the attorney for the Plaintiff(s) in this matter that these documents have been transmitted to you, and confirming that the Commissioner of Banking and Insurance is not authorized to receive service of any further documents in this action.

Very truly yours,

A handwritten signature in black ink that reads "Debra A. Mullen".

Debra A. Mullen  
Administrative Assistant

Enclosure  
29459-01 resend/Service of Process  
C: Durkin Law Offices, P.C.  
ATTN: Diana L. Moro, Esq.  
1760 Market Street, Suite 601  
Philadelphia, PA 19103

# **EXHIBIT E**



**Service of Process  
Transmittal**

04/22/2019

CT Log Number 535334111

**TO:** Michael Johnson, Legal Assistant  
The Hartford  
1 Hartford Plz, HO-1-09  
Hartford, CT 06155-0001

**RE: Process Served in New Jersey**

**FOR:** Twin City Fire Insurance Company (Domestic State: IN)

**ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:**

**TITLE OF ACTION:** 153 SUCKLE HIGHWAY, LLC, PLTF. vs. TWIN CITY FIRE INSURANCE COMPANY, DFT.

**DOCUMENT(S) SERVED:** Letter(s), Summons, Complaint

**COURT/AGENCY:** Camden County Superior Court, NJ  
Case # CAML00020719

**NATURE OF ACTION:** Insurance Litigation

**ON WHOM PROCESS WAS SERVED:** The Corporation Trust Company, West Trenton, NJ

**DATE AND HOUR OF SERVICE:** By Certified Mail on 04/22/2019 postmarked: "Not Post Marked"

**JURISDICTION SERVED :** New Jersey

**APPEARANCE OR ANSWER DUE:** Within 35 days form the date you received this summons, not counting the date you received it

**ATTORNEY(S) / SENDER(S):** Diana L. Moro, Esquire  
DURKIN LAW OFFICES, P.C.  
1760 Market Street - Suite 601  
Philadelphia, PA 19103  
215-569-9090

**ACTION ITEMS:** CT has retained the current log, Retain Date: 04/22/2019, Expected Purge Date: 04/27/2019

Image SOP

Email Notification, Michael Johnson MICHAEL.JOHNSON@THEHARTFORD.COM

Email Notification, Fiona Rosenberg Fiona.Rosenberg@thehartford.com

**SIGNED:** The Corporation Trust Company

**ADDRESS:** 820 Bear Tavern Road  
3rd Floor  
West Trenton, NJ 08628

**TELEPHONE:** 609-538-1818